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Customer No.: 07278

Docket No.: 03940/000K188-USO

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Michael Friedman et al.

Serial No.: 09/534,960

Art Unit: 1615

Confirmation No.: 3862

Filed: March 27, 2000

Examiner: S. Lee Howard

For: CONTROLLED DELIVERY SYSTEM OF ANTIFUNGAL AND KERATOLYTIC AGENTS FOR LOCAL TREATMENT OF FUNGAL INFECTIONS OF THE NAIL AND SURROUNDING TISSUES

DECLARATION OF MICHAEL A. DAVITZ

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 15, 2004

Sir:

I, Michael A. Davitz, Vice President, Intellectual Property, Taro Pharmaceuticals USA, Inc., located at Five Skyline Drive, Hawthorne, New York, 10532-9998, declare that:

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1. Rachel Cohen was originally named an inventor on the above-identified patent application. Applicants have now determined that Ms. Cohen is not an inventor of the presently claimed subject matter.
2. Prior to this determination, Ms. Cohen left Taro Pharmaceuticals Industries, Ltd. ("Taro") to work at another company.
3. As discussed below, multiple attempts have been made to contact Ms. Cohen and have her sign the statement to remove her as an inventor pursuant to 37 C.F.R. §1.48(a)(2), however, she has refused to communicate with Taro.
4. Prior to September 4, 2003, I attempted to reach Ms. Cohen by e-mail and telephone at her workplace, and on her cell phone. Ms. Cohen never returned any of my messages.
5. On September 4, 2003, I contacted Taro's Israeli attorney, Marc Coles (Vice President, General Counsel, Taro Pharmaceutical Industries, Ltd., Israel) to investigate the matter further. Upon information and belief, Mr. Coles spoke with one of the co-inventors of the application, Daniella Licht, who works for the same company as Ms. Cohen. Through Daniella Licht, Mr. Coles obtained the mailing address of the company and Ms. Cohen's office and cell phone numbers. On September 8, September 16, September 30, October 14 and October 29, 2003, the Taro attorneys tried to reach Ms. Cohen by phone, but these attempts were not successful. Ms. Cohen did not return any messages left at her office or on her cell phone. Mr. Coles also sent Ms. Cohen messages to her last known e-mail address, but was unsuccessful as these messages were similarly unanswered (although not returned as undeliverable e-mail).
6. On May 30, 2004, I contacted Netta Nashilevich of the law firm Eitan, Pearl, Latzer & Cohen-Zedek in Herziliya, Israel to find out Ms. Cohen's residential

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address. Ms. Cohen had a listed address of 39 Itzhak Rabin Street, Hedera, Israel. A letter with Ms. Nashilevich's contact information was sent to that address by registered mail. No response to this letter was received.

7. Upon information and belief, on June 20, 2004, Ms. Nashilevich spoke with Ms. Cohen on the phone. Ms. Cohen told Ms. Nashilevich that she did not have time to talk on the phone to Taro counsel about inventorship. Ms. Cohen agreed to respond to any e-mail from Taro regarding inventorship. On June 28, 2004, Taro made three unsuccessful attempts to transmit the claims of the application to Ms. Cohen. All e-mails were returned as being undeliverable to the address given to us by Ms. Cohen.
8. It is further declared that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patents.

Dated: July 26, 2004

By: 

Michael A. Davitz, M.D. J.D.
Vice President, Intellectual Property
Taro Pharmaceuticals USA, Inc.